

## REMARKS

Claims 19-20 are pending in the application. Claim 19 is independent. In the present paper, no claims have been amended, canceled, or added.

### Rejection of Claims 19-20 Under 35 U.S.C. §103(a)

In the Office Action, the Examiner rejected claims 19-20 under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 6,839,352 to Vogel (hereinafter “*Vogel*”) in view of U.S. Patent No. 6,801,535 to Richards et al. (hereinafter “*Richards*”). Applicants respectfully traverse the rejection.

To establish a *prima facie* case of obviousness, the Examiner must show that the cited references teach each and every element of the claimed invention. (MPEP §2143.) *citing In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). A patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was independently known in the prior art. *KSR Int’l C. v. Teleflex, Inc.*, No 04-1350 (U.S. Apr. 30, 2007). If a combination or modification to a reference is used, an Examiner must show that there is some expectation of success that the combination or modification proffered would predictably result in the claimed invention. Obviousness is a question of law based on underlying factual inquiries. The factual inquiries enunciated by the U.S. Supreme Court in *KSR* include the *Graham* factors of determining the scope and content of the prior art, ascertaining the differences between the claimed invention and the prior art, and resolving the level of ordinary skill in the pertinent art.

Once the *Graham* factual inquiries are resolved, the Examiner must explain why the difference(s) between the cited references and the claimed invention would have been obvious to one of ordinary skill in the art. The rationale used must be a permissible rationale. The USPTO promulgated Examination Guidelines for Determining Obviousness in View of *KSR* in the Federal Register, Vol. 72, No. 195 (October 10, 2007). These *KSR* Guidelines enumerate permissible rationales and the findings of fact that must be made under the particular rationale.

Independent claim 19 recites in pertinent part “first circuitry to generate a packet header *based on payload data* received from a micro-engine or from a memory controller, the first circuitry comprising: second circuitry to receive packet data from the memory controller or the micro-engine, and to store the packet data in first-in first-out (FIFO) circuitry” (emphasis added).

In the Office Action, the Examiner states that *Vogel* discloses in Figures 3 and 4 and at column 5, lines 31-42 and column 7, lines 34-48, “first circuitry to generate a packet header based on payload data received from a micro-engine or from a memory controller, the first circuitry comprising: second circuitry to receive packet data from the memory controller or the micro-engine, and to store the packet data in first-in first-out (FIFO) circuitry” as recited in claim 19. The Examiner concedes that *Vogel* does not disclose “third circuitry to track a start lane in the FIFO circuitry indicating a start of free space in the FIFO circuitry, and to determine a starting lane for packet payload such that alignment of payload data matches the start lane in the FIFO circuitry,” but cites *Richards* for this teaching. Applicants respectfully disagree.

Applicants respectfully submit that the Examiner has failed to make out a *prima facie* case of obviousness of claim 19 with respect to *Vogel* in view of *Richards* because the Examiner has failed to demonstrate how *Vogel* in view of *Richards* teaches each and every element recited in claim 19. For example, the Examiner has not shown where *Vogel* in view of *Richards* discloses “first circuitry to generate a packet header *based on payload data* received from a micro-engine or from a memory controller, the first circuitry comprising: second circuitry to receive packet data from the memory controller or the micro-engine, and to store the packet data in first-in first-out (FIFO) circuitry” as recited in claim 19. The Examiner points to no teaching in *Vogel* or *Richards* that discloses *how* a packet is generated. Applicants respectfully submit that the cited portions of *Vogel* and *Richards* provide no such disclosure. Nor does any other portion of *Vogel* or *Richards* disclose how a packet is generated. Thus, an assertion that *Vogel* in view of *Richards* discloses generating a packet header based on payload data is not supported by any evidence. Accordingly, Applicants respectfully submit therefore that claim 19 is patentable over *Vogel* in view of *Richards*.

Claim 20 properly depends from claim 19 and is thus patentable for at least the same reasons that claim 19 is patentable. (MPEP § 2143.03 (citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988))). Accordingly, Applicants respectfully request that the Examiner reconsider and remove the rejection to claims 19-20.

### CONCLUSION

Applicants respectfully submit that all grounds for rejection have been properly traversed, accommodated, or rendered moot and that the application is now in condition for allowance. The Examiner is invited to telephone the undersigned representative if the Examiner believes that an interview might be useful for any reason.

Respectfully submitted,  
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